

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
:
HENRY McCALL, :
Petitioner, :
-against- :
DALE ARTUS, Superintendent, :
Respondent. :
----- X
SHIRA A. SCHEINDLIN, U.S.D.J.:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/29/08

ORDER

I have reviewed the Report and Recommendation (“R&R”) of United States Magistrate Judge Debra Freeman, dated August 19, 2008 (Document #9), which recommends that the habeas petition brought by McCall under 28 U.S.C. § 2254 be denied. Although petitioner was given the opportunity to file objections to the R&R, he failed to do so. Based on my review, I hereby adopt the thorough and thoughtful R&R in full.

In accordance with the R&R, the instant habeas petition is dismissed with prejudice. Because petitioner’s failure to file objections precludes appellate review, this Court will not issue a certificate of appealability. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992) (“We have adopted the rule that failure to object timely to a report waives any further judicial review of the report.”). The Clerk of the Court is directed to close

this case.

SO ORDERED:



Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
September 29, 2008

- Appearances -

Petitioner (Pro Se):

Henry McCall
03-A-0018
Southport Correctional Facility
P.O. Box 2000
Pine City, NY 14871-2000

For Respondent:

Gary S. Snitow
Assistant District Attorney
One Hogan Place
New York, NY 10011
(212) 335-9330